Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers	)	WT Docket No. 05-265
	)	
Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services	)	WT Docket No. 00-193

To: The Commission

COMMENTS OF NTCH, INC.

NTCH, Inc. ("NTCH") is a privately held PCS licensee which provides service in small and rural communities in the West, the mountain states, Appalachia, the Midwest and the south. We are a small carrier, a true entrepreneur that paid cash for our licenses. These were the licenses that we could afford to pay for, build out, and operate. We provide a valuable service to consumers in these communities and enjoy a great reputation in doing so. We provide the best coverage in our licensed areas which we are only able to do by renting space on the towers we have built and by doing installations for the national carriers we have to compete with. We have never charged anyone over 10 cents a minute for going over their plan minutes. and most of our customers now enjoy the simplicity of unlimited minutes for a set price. In rural Tennessee, for instance, we have provided unlimited minutes of use for $29.95 since we launched service over four years ago, and we have never changed our offering. We also do not require long term contracts, we do not have termination fees, and we provide service to those who do not have credit or have poor credit on the same basis as those that do. In short, we provide quality, and easy to understand service that is not available to consumers from the national carriers, and we treat everyone the same -- regardless of their financial standing.

I. BACKGROUND

It speaks for itself that our investors, management, and employees have held up our end of the "social contract" on which the Designated Entity program was founded. We received discounts when we purchased the spectrum, and in return we provided exactly the innovative services that benefit the public that the discounts aimed to achieve. The FCC, however, has not kept up its end, and it should not miss the chance to remedy this because we are by, circumstance, a dying breed.

When we went into the auctions we reasonably assumed that the promised small business spectrum set asides would continue to exist and we would have other small entrepreneurial companies with which to roam, jointly market, and otherwise align so as to realistically compete for business niches which the national carriers ignored. Unfortunately this has not been the case because in the past the FCC did not do the most basic thing a business does when selling an item of value on an installment basis: secure its interest in the asset. The auctioned spectrum consequently got bid up beyond any reasonable measure because, in effect, the down payment was the total amount needed to control the spectrum. Further FCC actions allowed big carriers to gain access to restricted blocks by cleverly structuring "front" bidders to avoid attribution of revenue and assets. The FCC's lengthy fighting with the original defaulting C block bidders for untold number of years only compounded the problem. This ensured that virtually no large markets were available to companies that met the original intended set aside description. Today, the spectrum set aside for companies with whom we could do business has been allowed to be purchased either by fronts for the large companies or by the large companies themselves under the assertion that the entrepreneurs block set aside did not work.

So where does that lead us in the future? The largest carriers are getting even larger by being allowed to merger, reducing their operating costs and prices in the process. As an aside, when rural and smaller niche carriers asked the FCC to consider the roaming problem associated with these megamergers, the FCC had the opportunity to correct the problem and get the larger carriers to agree to reasonable rates, but it failed to impose any such obligation. We ourselves cannot offer customers free long distance and roaming because we do not have a national or regional network. The end result is that, as the nationals offer plans that do include such features at prices closer to what we can offer, we cannot compete no matter how resourceful we are.

So why don't we do roaming with any of the national carriers? We are CDMA so we can only speak to two carriers. One gave us a roaming agreement early on for 50 cents per minute and an additional 15 cents for long distance and has refused to ever change it despite our presentation of coverage maps showing that we cover vast areas where they had no coverage on their network. The other refused to discuss terms until this recent Commission NPRM on roaming was initiated. It refused even though we were able to offer better coverage than they have in many of our areas.

The recent consolidation of the national carriers has actually worsened the roaming situation. When the national cellular system originally developed, no individual carrier could provide service everywhere; every carrier of necessity had to enter into reasonable reciprocal roaming agreements in order to meet its customers' basic needs. Because the "Big Four" now have substantial national footprints under their own names, they have little or no incentive to enter into reasonable agreements with the regional independents. We are therefore in precisely the crisis that the wireline telephone industry found itself in in 1913 when the Bell System was refusing to interconnect its large urban networks with independently owned rural phone companies. The Department of Justice had to step in and broker a consent decree to ensure that all phone users in the United States could be interconnected into the national grid. The wireless industry is in similar peril.

II. AN ILLUSTRATIVE MARKET

We ultimately resigned ourselves to aligning with a regional carrier who did enter into a roaming agreement with us at 10 cents a minute in Grand Junction, CO. We were able to compete nicely with clearly superior local coverage, a little bit of roaming, better pricing, and local service. It was a good story for us, but a great story for people in Grand Junction who could actually talk to a locally employed person instead of a person in a phone bank in India.

When we first surveyed the competition in Grand Junction there were two carriers providing service from about three cell sites. We started building and developing sites for our network and we ultimately facilitated the other carriers expanding their networks on these sites. When we were finally forced to throw in the towel, we were providing service on 43 sites and most of the other carriers were trying to keep up. Towns like Crawford, CO with 200 people who did not have a prayer of getting wireless service now have a choice of three carriers. By the way, we did this with no USF subsidies. We made money and we still do to a lesser extent. What really drove us out of that market was that our customer base was roaming on Qwest's network for an economical amount. But when Qwest moved its customers to Sprint's network and sold its network to Verizon, we were faced with either trying to charge our customers over 60 cents for roaming when the other carriers were giving it away for free (their term not ours) or exiting the market. Before we were forced to die a slow death, we exited the market in a transaction with a national carrier affiliate that increased its coverage in the market from 17 sites to 43.

The bottom line is we did a good job in this market, and our participation served the consumer well. The only thing missing was roaming partners. The FCC needs to look at itself in this regard for taking away our anticipated roaming partners in the designated spectrum blocks and not requiring reasonable roaming from the larger carriers.

In the smaller surrounding areas there are a number of very small carriers that have five-cent Verizon roaming agreements and operations subsidized through USF funds. You might ask, if they are even smaller than you, how do they get a roaming agreement with Verizon? Verizon and Sprint will do agreements with these very small operators who are USF-subsidized because they operate in areas that are completely unprofitable and only make sense because of the USF subsidies. In other words there is nothing in it for them to drive these RLECS out of business. This is not the case with us, since we had by most accounts the largest customer base in Grand Junction and over 10 million minutes a month of activity. All of that traffic is now on the networks of the national carriers or their affiliates.

III. A FAIR SOLUTION

Our request is straight forward. Simply require that the national carriers offer national reciprocal automatic roaming to all carriers at the same rate they currently offer roaming to the small RLEC-affiliated wireless carriers. Alternatively they could be required to offer minutes for roaming at no more than the same price they offer minutes to MVNO partners. They have made a commercial statement in both regards that those rates provide an acceptable return to them. When they argued successfully to take back the entrepreneurs set aside, they argued that small carriers had proven not to be viable and gave as evidence those companies who defaulted in the original C block. They should not then be concerned by giving us half a chance to show them this is not the case. Additionally there are many policy reasons supporting a mandated fair roaming rate including the reduction in the proliferation of cell cites in rural areas, reduced operating costs to carriers, and more competition benefiting consumers.

The large carriers may advance a red herring argument that a national carrier with data services cannot roam with a small carrier offering only voice services. However, if the roaming indicator is lit, the consumer is certainly intelligent enough to know that he is not on the home network and does not expect all the services on his home network to be available. It is abundantly clear that the small carriers cannot stay on the cutting edge of the new data offerings being advanced by the merged large national carriers.

Mandatory automatic roaming at reasonable rates is just the first step in providing the consumer with good service and fair pricing. Other areas for investigation related to this NPRM include reducing or eliminating termination fees, preventing bundling or subsidizing of handsets, handset locking and/or eliminating the ability for carriers to charge more for minutes in excess of a purchased bundle than the minutes in the bundle. Elimination of these practices would do the public a great service. The present state of competition is based on complete deception of consumers in what they are buying a phone for, what its uses are, and what they are really paying for minutes. If carriers are forced to compete on price and service, it will be easy for the consumer to make choices.

Consider the following as illustrative of the need for regulation in this area versus allowing competition to resolve it. Almost six years ago, when we launched service in Grand Junction, we were one of the first couple of carriers to offer an unlimited plan. Accordingly we attracted some real heavy users, one lady in particular was a real estate broker and used her phone about 6,000 minutes a month. We thought it would be great advertising to do an ad that showed her cost with our company (at the time, $89) and compare it to the other carriers, the least of which was over $2,000 dollars for those same minutes. None of the media, newspapers, television or billboards would carry the ad for fear of losing advertising dollars from the large national carriers, so this story could not be communicated to consumers. Instead, they continue to be sucked in by bundles of minutes at seemingly reasonable prices, only to get socked later with huge surcharges when they exceed the allotted minutes.

Similarly, in Cookeville, Tennessee, we launched service at $29.95 for unlimited service (the real thing: no fine print about nights, weekends, etc.) and Verizon came and put a big billboard right over our store that said $35 for 3500 minutes with free long distance and free roaming. Most consumers did not notice the very small print that said 300 regular minutes and 3200 night and weekend minutes). Verizon's ploy worked. We did not do much business, even though at the average minutes of use for our customers, they would pay Verizon over $780.00 per month rather than $29.95 to us.

If the FCC takes seriously its role as a public servant, there is nothing better it could do than to take some of the actions we have suggested. The great majority of citizens are fearful and distrustful of their wireless providers because of the business practices of these companies as a group. Allowing small, honest companies to be driven out of business will not help correct things. We therefore urge the Commission to take action to require automatic roaming at reasonable rates and to consider the other suggestions above to free consumers from the headlock in which the national carriers hold them.

Respectfully submitted,

NTCH, Inc.

By________/s/____________
Glenn W. Ishihara
President

November 28, 2005